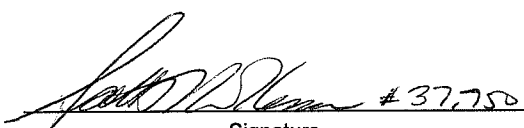


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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1006/0146PUS1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 10/580,656	Filed 25 May 2006
		First Named Inventor MAMBER	
		Art Unit 3785	Examiner LEO, LEONARD R
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number <u>51011</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>			


Signature
Martin R. Geissler
Typed or printed name
1.703.621.7140
Telephone number
February 6, 2012
Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Oliver MAMBER	Conf. No.: 5033
Application No.: 10/580,656	Art Unit: 3744
Filed: May 25, 2006	Examiner: Leonard LEO
Title: HEAT EXCHANGER	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF REQUEST FOR PRE-APPEAL BRIEF REVIEW

Sir:

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for reciting that a second composition comprises cerium while claim 15 from which it depends recites that the second composition comprises boron. It is respectfully submitted that claim 17 requires a composition that includes both cerium and boron, consistent with the recitation of boron and/or cerium in, for example, claim 1. Claim 17 is therefore submitted to be definite and supported by the original specification.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inbe in view of Troczynski. Claim 1 recites, inter alia, a heat exchanger having a number of heat transfer surfaces made from aluminum or aluminum compounds to which a plurality of layers have been applied. The first layer comprises nanoparticles of a first composition, providing corrosion resistance, and the second layer comprises nanoparticles of a second composition different than said first composition and having

hydrophilic properties. The nanoparticles of the first layer or the second layer comprise organic and/or inorganic compounds of boron and/or cerium dissolved and/or dispersed in inorganic and/or organic solvents, and each layer thickness amounts to less than 1 μm or equal to 1 μm , and the total layer thickness amounts to less than 5 μm or equal to 5 μm .

Inbe does not show a corrosion resistant layer having nanoparticles as claimed or a corrosion resistant layer having the claimed thickness or a hydrophilic layer having the claimed thickness. However, Trocznyski disclose a 50 μm thick anticorrosion layer comprising nanoparticles. It might be possible to use Trocznyski's disclosed anticorrosion layer as the anticorrosion layer of Inbe. However, in order to meet the limitations of claim 1, Trocznyski's anticorrosion layer would have to be reduced in thickness by a factor of 50. Applicant maintains that the record does not include a proper reason for thinning Trocznyski's anticorrosion layer in this manner and therefore submits that the requirements of *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007) have not been satisfied and that claim 1 is allowable over the art of record.

Applicant has argued that "obvious design expedient" is not a legally sufficient reason for changing the thickness of Trocznyski's anticorrosion layer. The examiner did not respond to this argument except to state that the rejection also included the statement: "One of ordinary skill in the art would employ any layer thickness to achieve a desired strength, longevity, effectiveness or heat transfer." It is respectfully submitted that this statement, taken alone or in combination with the "obvious design expedient" statement, does not constitute a reason for using an anticorrosive layer that is 98% thinner than the one disclosed in the art.

It is respectfully submitted that the record does not indicate what strength, longevity, effectiveness or heat transfer would be desired by a person of ordinary skill in the art or how reducing the thickness of a given layer by a factor of 50 would achieve such a result. It seems reasonable that high strength, long life and good effectiveness would be desirable, but nothing in the record suggests that any of these qualities will be achieved by reducing the thickness of an anticorrosion layer by 98%. And, assuming for sake of argument only that removing substantially all of Troczynski's anticorrosive layer would improve heat transfer, nothing in the record suggests that Troczynski's anticorrosive layer would still satisfactorily perform its anticorrosive function if reduced in thickness in this manner. This change is thus more likely to render Troczynski's anticorrosive layer unsatisfactory for its intended purpose, a non-obvious change according to MPEP 2143.01, rather than provide any advantage.

The Advisory Action refers to DE 10213756 and Yoon, neither of which is applied in the present rejection of claim 1. These references each disclose thin layers of coating materials that are different from what is disclosed in Troczynski and different from what is disclosed in claim 1. The fact that various thin coating layers are known to exist does not constitute a reason for reducing the thickness of Troczynski's anticorrosive layer by 98%, and mentioning these new references in an Advisory Action does not provide further support for the rejection of claim 1.

Nothing in the record suggests that a person looking at Inbe and considering what anticorrosive material to use would select the material of Troczynski and then apply no more than 1 μm of it (instead of the 50 μm as disclosed) and expect to achieve a useful result. For these reasons, it is respectfully submitted that the statement "One of

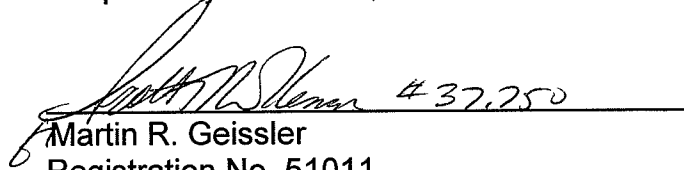
ordinary skill in the art would employ any layer thickness to achieve a desired strength, longevity, effectiveness or heat transfer" does not constitute a reason for a person of ordinary skill in the art to thin Troczynski's anticorrosive layer by a factor of 50 before adding it to Inbe. Claim 1 is submitted to be allowable for at least this reason.

Claims 7-10 and 13 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

It is respectfully submitted that the foregoing arguments also show that a prima facie case of obviousness has not been presented in connection with independent claim 14. Claims 15-17 depend from claim 14 and are submitted to be allowable for at least the same reasons as claim 14.

Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inbe in view of Troczynski and further in view of Niemeier. Claims 15 and 17 depend from claim 14. Niemeier does not address the shortcomings of Inbe and Troczynski discussed above. Claims 15 and 17 are therefore submitted to be allowable for at least the same reasons as claim 14.

Respectfully submitted,


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Date: February 6, 2012